

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE: §
§
BARBARA FLOWERS § **CASE NUMBER: 14-32720-13**
§
§ **CHAPTER 13**
§
DEBTOR(S) §
§

**OBJECTION TO CLAIM OF SELECT PORTFOLIO SERVICING, INC.
Claim no. 14**

**NO HEARING WILL BE CONDUCTED ON THIS OBJECTION TO
CLAIM UNLESS A WRITTEN RESPONSE IS FILED WITH THE
CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1100
COMMERCE STREET, DALLAS, TEXAS 75242 BEFORE CLOSE OF
BUSINESS ON AUGUST 17, 2015, WHICH IS AT LEAST 33 DAYS
FROM THE DATE OF SERVICE HEREOF.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE
CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR
THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH
HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD
WITH NOTICE ONLY TO THE OBJECTING PARTY.**

**IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY
REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE
UNOPPOSED, AND THE COURT MAY ENTER AN ORDER
GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY
BE TAKEN.**

TO THE HONORABLE JUDGE OF THIS COURT:

NOW COMES DEBTOR BARBARA FLOWERS (hereinafter "Debtor") by and through her counsel of record and files this Objection to Claim Number 14 filed by **SELECT PORTFOLIO SERVICING, INC.** (hereinafter "Claimant") pursuant to Rule 3007 of the Bankruptcy Rules of Civil Procedure and in support thereof respectfully would show the Court the following:

- 1 On 6/2/2014 the Debtor(s) filed a voluntary petition under chapter 13 of the Bankruptcy Code.
- 2 The non-governmental claims bar date ends on 10/08/2014.
- 3 On 10/08/2014, Claimant filed a Proof of Claim, claim number 14 in the amount of \$46,923.14, and asserts an arrearage claim of \$14,465.30.
- 4 Claimant alleges that Debtor has an escrow shortage or deficiency in the amount of \$12,561.20. They also assert that Debtor has missed 2 payments at the payment amount of \$887.26. The payment amount of \$887.26 includes principal, interest, taxes and interest according to the loan documents also submitted with Claim 14. Debtor objects to the inclusion of the escrow shortage in the amount of \$12,561.20 on the basis that Debtor had made all mortgage payments but two prior to the filing of the case and a shortage of two payments cannot account for an escrow deficiency or shortage of \$12,561.20.
- 5 The total escrow payment of those two payments is already accounted for in the number of installments due and therefore should not be included as an escrow deficiency as well.
- 6 Additionally, The claimant should have been adjusting the escrow payment on an annual basis to account for shortages or overages. Therefore any shortage amount would have only occurred in the year prior to filing as a result of miscalculation and to miscalculate by \$12,561.20 when hazard insurance is \$202.77/mo. is not possible.
- 7 Debtor has paid all of her property taxes since 2004 with the exception of \$528.88 that was paid by Claimant for this year's property taxes. Therefore, the escrow balance at the time of filing should not have been so high as a result of taxes paid by Claimant.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that the Court DISALLOW Claim Number 14 to the extent of the escrow shortage and deficiency alleged in the

pre-petition arrearage claim and for such other and further relief to which Debtor may show itself justly entitled.

Dated: July 14, 2015

Respectfully Submitted,

THE LAAS LAW FIRM

/s/ Kyle Kenneth Payne
Kyle Kenneth Payne
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Dallas, Texas 75231
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Attorney for Debtor(s)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 14, 2015, a true and correct copy of the foregoing was served on all parties in interest below and on the attached mailing matrix.

DEBTOR:

Flowers, Barbara
9307 Sandy Hook Circle
Dallas, TX 75227

STANDING CHAPTER 13 TRUSTEE:

Thomas Powers
125 E John Carpenter Frwy, Ste 1100
Irving, TX 75062

U.S. TRUSTEE

Rm. 9C60
1100 Commerce Street
Dallas, TX 75242

SELECT PORTFOLIO SERVICING, INC.

3815 South West Temple
Salt Lake City, UT 84115

By: /s/ Kyle Kenneth Payne

Kyle Kenneth Payne
State Bar No. 24083637